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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/607,001	06/26/2003	Howard A. Kingsford	05918-314001	5139

26161 7590 12/17/2004

FISH & RICHARDSON PC
225 FRANKLIN ST
BOSTON, MA 02110

EXAMINER

BRITTAIN, JAMES R

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 12/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/607,001

Applicant(s)

KINGSFORD ET AL.

Examiner

James R. Brittain

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[Handwritten signature]

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 17-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>111403, 110504, 1117</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restriction

Applicant's election without traverse of Group I in Paper No. 10272004 is acknowledged.

Claim 16 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made without traverse in Paper No. 10272004.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. §102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 11, 13-15 and 20-25 are rejected under 35 U.S.C. §102(b) as being clearly anticipated by Kline et al. (US 2002/0016581).

Kline et al. (figures 1, 5A) teaches a touch fastener comprising: a female fastener component in the form of a flexible material carrying a field of fibrous loops; and a male fastener component comprising a flexible web carrying a multiplicity of loop engageable fastener elements extending from an exposed surface of the male fastener component in a fastening area; the female and male fastener components each permanently arranged on a product in spaced apart relation and positioned to be overlapped to form a releasable fastening that resists shear force applied in a primary shear loading direction; wherein one of the flexible material of the female fastener component and the flexible web of the male fastener component comprises an elastic material; and wherein the fastening area comprises a plurality of discrete regions bounded

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by exposed areas of the web void of fastener elements, the fastening area defining a fastening centroid along an axis extending in the loading direction, the fastening area arranged asymmetrically about the axis so as to induce a twist in the fastening in response to shear force applied in the loading direction. Kline et al. indicate that the fastener can be either hook and loop material or adhesive [0050]. Further, Kline et al. indicate that the web 48 can be elastomeric [0057]. The device of Kline et al. performs so as to induce a twist in response to a shear force applied in the loading direction. As to claim 11, Kline et al. discloses that the area of the waistband is elastic and this is sufficient with the indication that the fasteners 14 can be loops to meet the limitation of the flexible material of the female fastener component being elastic.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-10, 12 and 17-19 are rejected under 35 U.S.C. §103(a) as being unpatentable over Kline et al. (US 2002/0016581).

Kline et al. (figures 1, 5A) teaches a touch fastener comprising: a female fastener component in the form of a flexible material carrying a field of fibrous loops; and a male fastener component comprising a flexible web carrying a multiplicity of loop engageable fastener elements extending from an exposed surface of the male fastener component in a fastening area; the female and male fastener components each permanently arranged on a product in spaced apart relation and positioned to be overlapped to form a releasable fastening that resists shear

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force applied in a primary shear loading direction; wherein one of the flexible material of the female fastener component and the flexible web of the male fastener component comprises an elastic material; and wherein the fastening area comprises a plurality of discrete regions bounded by exposed areas of the web void of fastener elements, the fastening area defining a fastening centroid along an axis extending in the loading direction, the fastening area arranged asymmetrically about the axis so as to induce a twist in the fastening in response to shear force applied in the loading direction. Kline et al. indicate that the fastener can be either hook and loop material or adhesive [0050]. Further, Kline et al. indicate that the web 48 can be elastomeric [0057]. The device of Kline et al. performs so as to induce a twist in response to a shear force applied in the loading direction. The difference is that the male fastener component is not stated as being a layer of relatively nonextensible resin permanently secured to the web by encapsulating fibers of the web as recited in claims 2-10, 12 and 16-19. This is conventional structure and applicant is given Official Notice that the securement of relatively nonextensible fastener material to elastic web material is well known and its use in the device of Kline et al. would have been obvious as it would still provide the adjustment Kline et al. disclose.

Conclusion

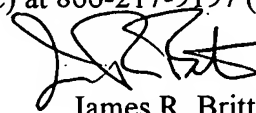
The patents of Tanzer et al. (US 6730069, figures 1-11), Pozniak et al. (US 6045543, figures 2, 4), Aledo et al. (US 4850988, figures 1-3) and Suprise (US 5853405, figures 2-5) teach pertinent fastener structure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Brittain whose telephone number is (703) 308-2222. The examiner can normally be reached on M-F 5:30-2:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (703) 306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



James R. Brittain
Primary Examiner
Art Unit 3677

JRB